

State of California

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Legislative Change No.

04-7

Bill Number: AB 3073

Author: Assembly R&TC

Chapter Number: 04-354

Laws Affecting Franchise Tax Board: Revenue and Taxation Code Sections 17049, 17076, 19191, 19192, and 19194.

Date Filed with the Secretary of the State: August 30, 2004

SUBJECT: Claim of Right Deduction/Clarify Application of 2% Floor/Extend Voluntary Disclosure to Limited Liability Companies

Assembly Bill 3073 (Assembly Revenue & Taxation Committee), made the following changes to California law:

Section 17049 is added to the Revenue and Taxation Code, and Section 17076 is amended.

This act would conform California law to federal claim of right provisions, allowing a taxpayer to either:

- Claim a deduction in the current year for income repaid, or
- Determine a credit equal to the decrease in tax for the year of receipt if the repaid item is excluded from gross income in that year, whichever results in the least tax.

Section 19191 of the Revenue and Taxation Code is amended.

This act allows limited liability companies and their members to participate in the existing Franchise Tax Board (FTB) voluntary disclosure program that allows qualified entities to disclose their business activities in California, file delinquent income tax returns, and pay taxes and interest related to these activities. In exchange the FTB will waive listed penalties.

Section 19192 of the Revenue and Taxation Code is amended.

This act expands the definition of qualified entities eligible to participate in the existing voluntary disclosure program to include limited liability companies and their members.

Section 19194 of the Revenue and Taxation Code is amended.

This act makes minor technical changes including making consistent the use of the term "qualified entity" in the several law sections relating to FTB's voluntary disclosure program.

This act is effective August 30, 2004. The claim of right provisions would be operative January 1, 2004. The voluntary disclosure program would be operative for agreements entered into on or after January 1, 2005.

This act will not require any reports by the department to the Legislature.

Bureau Director

Jana Howard (for JBP)

Date

9/1/2004